Service Date: December 2, 1985

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

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IN THE MATTER of the Application for Authority to Increase Rates and Charges of Molerway Freight Lines, Inc. in its Tariff No. MOWY 300-A MPSC No. 2	)))))	TRANSPORTATION DIVISION DOCKET NO. T-8767 ORDER NO. 5690

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FINAL ORDER

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APPEARANCE

FOR THE APPLICANT:

David L. Jackson, Attorney at Law, 203 North Ewing Street, Helena, Montana 59601, appearing on behalf of Applicant Molerway Freight Lines, Inc.

FOR THE PROTESTANT:

James C. Paine, Montana Consumer Counsel, 34 West Sixth Avenue, Helena, Montana 59620

FOR THE COMMISSION:

Robert Nelson, Staff Attorney, 2701 Prospect Avenue, Helena, Montana 59620

BEFORE:

TOM MONAHAN, Commissioner and Hearings Examiner
CLYDE JARVIS, Commissioner
HOWARD ELLIS, Commissioner
JOHN DRISCOLL, Commissioner
DANNY OBERG, Commissioner

FINDINGS OF FACT

1. On May 3, 1985, Molerway Freight Lines, Inc., P.O. Box 21669, Billings, Montana 59104-1609 filed increased rates and charges with the Montana Public Service Commission of between zero (0%) percent and two hundred twenty-one point sixty-one (221.61%) percent. This increase applies on the transportation of general commodities between points and places in the State of Montana.

2. The matter was noticed to the public and protests were received.

3. By Suspension order, Service Dated June 12, 1985, the Commission suspended the proposed rate increase in Docket No. T-8767. Notice of Public Hearing, Service Date June 27, 1985, was mailed to parties of record and all known interested parties setting the matter for hearing on the 23rd day of July , 1985, in the Conference Room of the Commission offices at 2701 Prospect Avenue, Helena, Montana, and the Hearing was held on that date.

4. Mr. Trygve Moler, President and Al Brogan of Molerway Freight Lines, Inc., testified and sponsored exhibits relating to the proposed increases.

5. Mr. Moler stated that Molerway Freight Lines, Inc. was started in 1971. It was expanded in 1979 and by 1984 they had achieved their goal of becoming the major LTL carrier in Montana. To improve their operation and to make it operate more economically, they have set schedules to give shippers the best possible service. They are bidding fuel costs to help save money, but because they are behind on their fuel bills they are finding it difficult to get bids. to cut expenses they have stopped using leased equipment and now use purchased equipment. In their terminals, such as in Bozeman, they have limited lighting and no loner have toilet facilities.

6. Mr. Moler also explained that Molerway has improved their computer software program and computer system. He feels they are better able to react to specific financial areas and pinpoint problems. Mr. Moler stated large turnovers in personnel, over one third this year, has been minimized with the acquisition of their new and expanded computer system. New employees now pull rates off of the computer rather than reading a tariff and possibly quoting a wrong rate.

7. With all of the improvements and cost saving steps, Mr. Moler's experience tells him the company will still lose money this year. Mr. Moler feels they need more money but do not want a general rate increase. he stated they serve over 250 towns in Montana and they face competition in 80 percent of those towns. They have over 7500 customers and the average shipper does approximately $400 worth of business with them per month.

8. Mr. Moler stated that, rather than a general rate increase, they propose to have each traffic lane pay its own way. Thus they propose to have the shipper in given areas bear the costs Molerway incurs in those same areas. these costs were outlined in applicant's prefiled testimony as Exhibit TM No. 6. They want to have each traffic lane operate at a 90 operating ratio. They stated the methodology of having each lane pay its own way is not new. it is presently used by all of the major motor rate bureaus to justify increases before the ICC and before some state regulatory bodies.

9. The major area for increases in expenses were outlined by Al Brogan of Molerway. Increases were shown in workman's compensation, depreciation, interest and a decrease in vehicle rent. The largest increase was shown in the cost of insurance. the insurance cost may increase as much as five fold or by $650, 000 system wide.

10. Information presented at the hearing could not justify this insurance figure so a request for a late filed exhibit was made. The late filed exhibit by Molerway showed a system wide insurance increase of $542,690.

11. Proposed increases in expenses by Molerway were projected at 12.3 percent.

12. Protestants presented statements before the Commission in opposition to the rate increase and to the methodology used.

13. Mr. Francis J. Galvin, Transportation Manager for Pacific Hide & Fur Depot headquartered in Great Falls, Montana opposed the sought after increases by Molerway Freight Lines, Inc.. He felt the Continuous Traffic Study methodology used is discriminatory to almost all areas with origination or destination points other than Billings, Montana.

14. Al Eli, President of Northern School Supply Company in Great Falls, Montana was also opposed to the methodology used by Molerway Freight Lines, Inc..

He echoed earlier statements that the percentage of increase from Great Falls to points in Montana appear to be much greater than the percentage of increase from Billings, Montana to the same points. He did not want to see the city of Great Falls put at a disadvantage.

Mr. Eli stated that his company ships school supplies to every point in Montana and his number one competitor for those same accounts is out of Billings, Montana. Using the methodology proposed by Molerway would put his company at a serious competitive disadvantage.

15. Leo Walsh, Traffic consultant with the Great Falls Traffic Bureau which represents 147 shippers and receivers of freight in Great Falls and around the state also appeared in opposition. He felt the proposed increase and methodology used was self defeating. Mr. Walsh said the proposed rates will result in the loss of traffic originating in Great Falls, which could only result in another request for higher rates.

Mr. Walsh further added that the applicant's request should be denied because of the extremely high increases sought. Moreover, he feels the proposal will lead to a disruption of normal market areas and discrimination against long established distribution points.

16. George Paul, with the Montana Wheat Committee representing the Great Falls Chamber of Commerce, also appeared in opposition to the methodology used by Molerway Freight Lines, Inc.. Mr. Paul said he does not oppose an increase but that it should be a general, across the board, rate increase.

17. On the 29th of August, 1985, Consumer Counsel filed a Motion to Strike or, Alternatively, a Motion to Rehear Applicant's late filed Exhibit No. A-6. Consumer Counsel stated that applicant was to file copies of its July insurance invoices as a late filed exhibit but rather materially amended its filing with explanatory narrative which represented a significant change in the company's application.

18. On October 11, 1985, applicant responded to a list of questions which were generated by the Commission in response to the late filed Exhibit No. A-6

19. the commission then requested that all parties of record sign and return to Commission offices by November 8, 1985, a stipulation which would allow the Commission to consider the late filed exhibit dated July 30, 1985 and the response to

questions generated by that late filed exhibit dated October 11, 1985. This stipulation would allow the Commission to incorporate those documents as a part of the official administrative record for the purpose of issuing an order in this case.

20. By November ###, 1985, all stipulations had been signed and returned to the Commission.

ANALYSIS

The Commission does not feel that the Continuous Traffic Study methodology is proper in this case. It is the Commission's opinion that since Molerway Freight Lines, Inc. lacks competition in some of its traffic lanes, this type of methodology would not be in the best interest of the people of the State of Montana. This commission feels that a general rate increase applicable to all users of Molerway's services would by more equitable.

By examining the late filed exhibit and subsequent questions which arose out of that exhibit, the Commission found an overestimation of Molerway's insurance costs.

During the hearing, Molerway testified that their system wide insurance cost would increase as much as fivefold or by $650,000 per year. Molerway used the best information they had available at the time, but was unable to justify the $650,000 figure. Their requested late filed Exhibit No.. A-6 lowered that system wide figure to $542,690. Further investigation by the Commission lowered that figure still, to $477,202.

The $477,202 figure was arrived at by reducing the cost of deductible expenses. Originally, Molerway stated that 18 of 57 straight trucks at $1,000 deductible and 39 of 57 tractors at $5,000 deductible was the total composition of their fleet.
Some of their equipment is self-insured and cannot be allowed in developing the deductible cost. Removing those self-insured vehicles from that total lowers their fleet total to 5 of 21 straight trucks at $1,000 deductible and 16 of 21 tractors at $5,000 deductible.

The adjusted mathematical equation to develop the deductible cost per accident would be as follows: $[(5/21)\ (1000)\ ] + [(16/21)\ (5000)\ ] = 4047$.

The accident figure must also be adjusted to reflect the reduced equipment. That equation would be: $21/57 = .37 x 29.33 = 10.9$. Rather than showing 29.33 accidents per year, the adjusted figure due to reduced equipment is now at 10.9 accidents per year.

By multiplying the projected number of accidents per year (10.9) times the deductible cost of $44,112 per year.

The cost for self-insurance on $301,000 worth of revenue equipment and $550,000 in office equipment, dock equipment and fixtures is $210,330 annually. The Commission chose to allow the full amount for self-insurance. This action was based on the amount of exposure one subjects oneself to when not under the protective umbrella of full insurance coverage.

The Commission will require that Molerway report on a yearly basis for the next five years the amount and date that self-insurance money is deposited.

The premium charge of $222,760 is actual premium cost and reflects the reduced insurance liability. The commission accepts this figure in full as a true and correct charges.

By adding the three insurance charges, deductible cost, self-insurance cost and actual premium cost, one arrives at the adjusted system wide insurance expense of $477,202.

System wide, Molerway showed known increases and one reduction in the following areas:

Workman's Compensation	$ 54,543.40	
Vehicle Rent	(105,795.32)	
Depreciation	40,489.22	
Interest	31,963.13	
Insurance	303,890.00	(477,202-173,312*)
TOTAL	$325,090.43	

*1984 Insurance Cost

When one divides the adjusted known expense increase by the total expense, one derives a reduction in the total expense increase. Molerway projected their total expense increase at 12.3 percent. The Commission accepts a total expense increase of 5.9 percent. $325,090/$5,490,962=5.9 percent.

These costs must then be broken down to intrastate expenses by using 42.07 percent, which is Molerway's estimate of intrastate revenue. The breakdown of intrastate expense increase, which is the only portion the Commission can rule on, is as follows:

Workman's compensation	$ 22,898.87
Vehicle Rent	(44,508.09)
Depreciation	17,037.60
Interest	13,446.89
Insurance	124,631.73
TOTAL	$133,507.00

The Commission, therefore feels, that the proper allowable increase in intrastate expense is $133,507 which is 5.9 percent of total intrastate expenses of $2,262,834.

The commission accepts Molerway's request for a 90 operating ration but feels this must be achieved through a general rate increase of 18.9 percent.

The 18.9 percent increase was obtained by taking intrastate proforma expenses $2,262,834, then adding the $133,507 adjusted intrastate expense increase which give an adjusted intrastate proforma total expense of $2,396,341. Then divide the $2,396,341 expense figure by the accepted 90 operating ration to achieve the adjusted proforma revenue figure of $2,662,601. Subtracting the proforma revenue figure of $2,238,551 from the adjusted proforma revenue figure of $2,662,601 leaves $424,050 or a general rate increase of 18.9 percent.

The Commission feels the 18.9 percent general rate increase should be spread to all users of Molerway's services and denies the request to accept the Continuos Traffic Study methodology set forth by applicant.

CONCLUSIONS OF LAW

1. The Montana Public Service Commission properly exercises jurisdiction over the parties and matters in this proceeding pursuant to Title 69, Chapter 12, MCA

2. The commission has provided adequate notice and opportunity to be heard to all interested parties in this matter. §69-12-322, MCA.

3. The Commission has jurisdiction over the rates and charges for Molerway Freight Lines, Inc. intrastate service in the State of Montana. §§69-12-501 and 69-12-504, MCA.

4. The rates and charges approved by this Order are fair, just, reasonable, and nondiscriminatory. § 69-12-503,MCA.

ORDER

IT IS HEREBY ORDERED that Molerway Freight Lines, Inc. may increase its rates and charges in Docket T-8767 by 18.9 percent in its Freight Tariff 300-A, MPSC No. 2.

IT IS FURTHER ORDERED that the continuous Traffic Study methodology is denied by this Commission and that a general rate increase will be used in its place.

IT IS FURTHER ORDERED that Molerway Freight Lines, Inc. file tariff pages with this Commission reflecting the approved general rate increase of 18.9 percent.

IT IS FURTHER ORDERED that these rates may not become effective on less than 10 days notice from the Service Date of this order.

IT IS FURTHER ORDERED that Molerway Freight Lines, Inc. will report in writing annually for the next five years the amount and date of self-insurance deposited by said company.

DONE IN OPEN SESSION AT Helena, Montana this 25th day of November, 1985, by a vote of 5-0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

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CLYDE JARVIS, Chairman

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HOWARD L. ELLIS, Vice Chairman

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JOHN DRISCOLL, Commissioner

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TOM MONAHAN, Commissioner

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DANNY OBERG, Commissioner
(Voting to Concur)

ATTEST:

Trenna Scoffield
Secretary

(SEAL)

NOTE: Any interested party may request the Commission to reconsider this decision. A motion to reconsider must be filed within ten (10) days. See 38.2.406, ARM.

CONCURRING OPINION

The need for additional revenues of Molerway was firmly established in the course of the handling of the application. Molerway, like much of the transportation industry in Montana, has had to cope with the rising cost of providing service at a time when much of its service territory is suffering a stagnant economy. Insurance costs, as documented in the order, have had a substantial impact on the need for additional revenues.

I agree with Commission approval of the additional revenue grant but disagree that the rate design approved is the best method to address Molerway's problems. In their application the carrier proposed a departure from traditional Montana ratemaking by setting rates on a route specific stand alone basis rather than the usual across the board basis. The protestants in this case made it very clear that the Molerway rate structure would be a severe burden to some shipping routes with increases projected in excess of 200 percent. As a Commissioner representing an area of the state that would have felt the brunt of these increases, I have given due consideration to those arguments. I will accept the majority position that a proper balancing of carrier and shipper interests demands an across the board increase but I believe a cautionary note must be made that the long term public interest may have been better served by the adoption of the Molerway proposal. I reached that conclusion by observing that Molerway serves two different markets. When granted its operating authority, Molerway was given access to the high volume intercity routes to compensate and help subsidize for the cost of providing service to its less lucrative isolated markets in rural Montana.

There are serious doubts in my mind if the additional increases granted in this order will assure the financial integrity of Molerway. According to the applicant, its profitable intercity service routes are subject to competitive forces and the higher tariffs may very well lower its overall revenues. As a result, the isolated markets the Commission has sought to protect in this order could be subject to future abandonment or curtailment of service proceedings.

The Commission and Carrier will have an obligation to review the effects of this order to insure Molerway remains a viable operating system. Selective route tariff decreases may be in order to insure Molerway retains enough market share of the profitable routes to assure continued service to rural Montana.

DANNY OBERG, Commissioner